



DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE-2021-0006]

Eagle River from Bravo Bridge to Eagle Bay in Knik Arm, Richardson Training Area on Joint Base Elmendorf-Richardson, Alaska; restricted area.

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to revise its regulations to establish a restricted area within the Richardson Training Area on Joint Base Elmendorf-Richardson (JBER), at Eagle River. The United States Army, Alaska (USARAK) G3/5/7 Training and Support Activity-Alaska (TSA-AK) requested establishment of a restricted area which would be located in the area of navigable waters extending from the span on Bravo Bridge across Eagle River to the mouth of Eagle River Knik Arm (Eagle River channel). Establishment of the restricted area would prevent all watercraft navigations and individuals from entering an active military range munitions impact area at all times, except for authorized vessels and individuals engaged in support of military training and management activities. This restricted area is necessary to avoid inadvertent entry into the impact area during live-fire weapons training, exposure to hazardous noise, and inadvertent encounters with unexploded ordnance.

DATES: Written comments must be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by docket number COE-2021-0006, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: david.b.olson@usace.army.mil. Include the docket number, COE-2021-0006, in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO-R (David B. Olson), 441 G Street NW, Washington, DC 20314-1000.

Hand Delivery / Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE-2021-0006. All comments received will be included in the public docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any compact disk you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be

able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov. All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, U.S. Army Corps of Engineers, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3) the Corps is proposing to amend the regulations at 33 CFR part 334 by establishing a restricted area in the Eagle River channel. The amendment to this regulation will allow the USARAK Commander to prevent all watercraft navigations and individuals from entering an active military range (Richardson Training Area, Joint Base Elmendorf-Richardson) munitions impact area at all times, except for authorized vessels and individuals engaged in support of military training and management activities. This restricted area will be in place as a precautionary measure to protect the public from inadvertently entering the impact area during live-fire weapons training, encountering hazardous noise in the vicinity of the impact area, and encountering unexploded ordnance.

Procedural Requirements

a. Regulatory Planning and Review. This proposed rule is not a “significant regulatory action” under Executive Order 12866 (58 FR 51735, October 4, 1993) and it was not submitted to the Office of Management and Budget for review.

b. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.* This rule has been reviewed under the Regulatory Flexibility Act (Public Law 96-354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments).

The Corps certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The restricted area is necessary to protect public safety. This restricted regulation would prevent all watercraft and individuals from entering an activity military range munitions impact area at all times, except for authorized vessels and individuals engaged in support of military training and management activities. The regulation would allow people, watercraft, or vessels to enter or remain in the waters in the restricted area as long as they are authorized by the enforcing agency. Small entities can utilize navigable waters outside of the restricted area. Unless information is obtained to the contrary during the comment period, the Corps expects that the economic impact of the proposed restricted area would have practically no impact on the public, any anticipated navigational hazard or interference with existing waterway traffic. After considering the economic impacts of

this restricted area regulation on small entities, I certify that this proposed rule would not have a significant impact on a substantial number of small entities.

c. Review Under the National Environmental Policy Act. Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps expects that this regulation, if adopted, will not have a significant impact on the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered.

d. Unfunded Mandates Act. This proposed rule does not contain a federal mandate that may result in expenditures of \$100 million or more for tribal, state, and local governments, in the aggregate, or the private sector in any one year. Therefore, this proposed rule is not subject to the requirements of Sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA). The proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, the proposed rule is not subject to the requirements of Section 203 of UMRA.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Restricted areas, Waterways

For the reasons set forth in the summary above, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.1305 to read as follows:

§ 334.1305 Eagle River from Bravo Bridge to its mouth at Eagle Bay in Knik Arm, Richardson Training Area on Joint Base Elmendorf-Richardson, Alaska; restricted area.

(a) *Restricted area.* The restricted area consists of navigable waters within an area defined as beginning a point on shore at latitude 61°19'40.1" N., longitude 149°44'20.336" W.; thence easterly to latitude 61°19'41.59" N., longitude 149°44'6.825" W.; 3.06 nautical miles southerly along the river to latitude 61°18'40.13" N., longitude 149°41'16.12" W.; thence southerly to latitude 61°18'38.404" N., to longitude 149°41'14.73" W. The datum for these coordinates is NAD-83.

(b) *The regulation.* The restricted area is permanently closed for public use at all times. No persons, watercraft, or vessels shall enter, or remain, in the area except for those authorized by the enforcing agency.

(c) *Enforcement.* This regulation will be enforced by the Commander, United States Army-Alaska.

Thomas P. Smith,

Chief, Operations and Regulatory Division.